IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DONNA RICHARDSON-FREEMAN	)	CIVIL ACTION
	)	
v.	)	
	)	
NORRISTOWN AREA SCHOOL DISTRICT, et al.	)	No. 00-2794

MEMORANDUM

Padova, J. **March , 2001**

This matter arises on Defendant John Haines and Barbara Richet's Motion for Summary Judgment. Plaintiff filed a response. For the reasons that follow, the Court grants Defendants' Motion and enters judgment for the Defendants.[1]

I. Background

Plaintiff Donna Richardson-Freeman was employed as a teacher at J.K. Gotwals Elementary School beginning in 1993. She alleges various incidents of racial discrimination. Plaintiff originally commenced this action on June 2, 2000, against the Norristown Area School District ("School District"), Human Resources Director John Haines ("Haines"), and Gotwals Principal Barbara Richet ("Richet"), asserting various statutory and constitutional claims, including those pursuant to 42 U.S.C. §§ 1981, 1982, 1983, 1985, 1986 and 1988. Plaintiff filed an Amended Complaint on July 3, 2000. The Court dismissed the Amended Complaint on September 8, 2000. Plaintiff filed a

[1]Defendants also ask the Court to deem as admitted various requests for admissions to which Plaintiff failed to respond. As the Court deems these requests unnecessary for purposes of ruling on the summary judgment motion, the Court need not consider whether the requests should be admitted.

Second Amended Complaint on September 21, 2000, bringing only § 1983 claims against the School District, Haines, and Richet pursuant to the First and Fourteenth Amendments. By Order dated November 29, 2000, the Court dismissed all claims against the School District, and the § 1983-Fourteenth Amendment claims against the individual defendants, leaving only the § 1983-First Amendment claims against individual defendants Haines and Richet. These individual Defendants now move for summary judgment on the § 1983-First Amendment claims.[2]

II. Legal Standard[3]

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). An issue is "genuine" if the evidence is such that a reasonable jury could return a verdict for

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[2]Plaintiff's brief suggests she is under the misapprehension that causes of action other than § 1983-First Amendment claims remain before the Court. This confusion likely arises from Plaintiff's own Second Amended Complaint, which fails to list clearly the causes of action being asserted. In any case, the Court was explicit in its Order of November 29, 2000, that the only claims remaining in the case after disposition of Defendants' Motion to Dismiss were the § 1983-First Amendment claims asserted against John Haines and Barbara Richet. The Court again clarifies here that the only claims remaining before the Court at the time of the filing of Defendants' Motion for Summary Judgment are the § 1983-First Amendment claims against Haines and Richet. Accordingly, the Court has limited its consideration of Defendants' Motion for Summary Judgment to these claims.

Defendants suggest that the Court should strike substantial sections of Plaintiff's brief that relate to argument and cases involving causes of action other than the § 1983-First Amendment claims. The Court does not believe it necessary to strike any portion of Plaintiff's brief. Nevertheless, the Court declines Plaintiff's invitation to apply argument or law not relevant to the claims currently before the Court.

[3]Plaintiff asks the Court to "allow the barebones pleadings . . . to be fleshed out before a ruling is made on the merits of the complaint." Pl.'s Mem. at 16. The Court reminds Plaintiff that on motion for summary judgment, reliance on the pleadings in opposition to that motion is improper. "When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations. . . ." Fed. R. Civ. P. 56(e).

the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A factual dispute is "material" if it might affect the outcome of the case under governing law. Id.

A party seeking summary judgment always bears the initial responsibility for informing the district court of the basis for its motion and identifying those portions of the record that it believes demonstrate the absence of a genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). Where the non-moving party bears the burden of proof on a particular issue at trial, the movant's initial Celotex burden can be met simply by "pointing out to the district court that there is an absence of evidence to support the non-moving party's case." Id. at 325. After the moving party has met its initial burden, "the adverse party's response, by affidavits or otherwise as provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." Fed. R. Civ. P. 56(e). That is, summary judgment is appropriate if the non-moving party fails to rebut by making a factual showing "sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Celotex, 477 U.S. at 322. Under Rule 56, the Court must view the evidence presented on the motion in the light most favorable to the opposing party. Anderson, 477 U.S. at 255. If a claimant lacks support for necessary element of a cause of action, then summary judgment may be granted. Muslim v. Frame, 854 F. Supp. 1215, 1222 (E.D. Pa. 1994) (court will grant summary judgment against party who fails to provide support for essential element in 42 U.S.C. § 1983 claim on which party will bear burden of persuasion at trial). "[I]f the opponent [of summary judgment] has exceeded the 'mere scintilla' [of evidence] threshold and has offered a genuine issue of material fact, then the court cannot credit the movant's version of events against the opponent, even if the quantity of the movant's evidence far outweighs that of its opponent. Big Apple BMW, Inc. v. BMW of North America, Inc., 974 F.2d 1358, 1363 (3d Cir.

1992).

III. Discussion

Defendants seek summary judgment on the §1983-First Amendment claims. They contend that there is an absence of evidence to support Plaintiff's case. In aid of their Motion, Defendants have provided: transcripts from Plaintiff's depositions; a transcript from the deposition of Mildred Monroe, another teacher at the school; a series of letters and other correspondence in Plaintiff's personnel file; and affidavits from the two Defendants. Defendants' brief cites extensively to the submissions, and asserts that Plaintiff lacks evidence to prove key elements of her claim. The Court concludes, on the basis of these submissions, that the Defendants have met their initial burden of demonstrating an absence of evidence to support Plaintiff's case. It is thus Plaintiff's responsibility to point to evidence in the record that demonstrates genuine issues of material fact for trial.

Plaintiff's brief, however, fails to point specifically to evidence in the record, either by summary or by specific reference. Examination of the brief reveals that Plaintiff has not even set forth any conclusory statements regarding the merits of her claim. Plaintiff has, however, attached a number of exhibits to her response to the motion for summary judgment, including an affidavit.[4] Accordingly, notwithstanding Plaintiff's failure to assist in the inquiry, the Court has considered carefully all of the relevant evidence contained in Plaintiff's submissions.

Courts apply a three-step, burden-shifting analysis for retaliation claims made pursuant to

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[4]Plaintiff submits a "Counteraffidavit" that is essentially a declaration executed under penalty of perjury. For purposes of this Motion, the Court will treat this submission as an affidavit.

The Court has considered the facts in this affidavit in conformance with Federal Rule of Civil Procedure 56(c), which requires that affidavits "shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein." Fed.R.Civ.P. 56(c).

the First Amendment under Section 1983. Watters v. City of Philadelphia, 55 F.3d 886, 892 (3d Cir. 1995). First, the plaintiff must show that he engaged in conduct or speech that is protected by the First Amendment. Id. Whether the plaintiff's speech was protected is a question of law appropriate for the court to decide on summary judgment. Azzaro v. County of Allegheny, 110 F.3d 968, 975 (3d Cir. 1997). Second, the plaintiff must show that the defendant responded with retaliation, and that the protected activity was a substantial or motivating factor in the alleged retaliatory action. Anderson v. Davila, 125 F.3d 148, 161 (3d Cir. 1997); Watters, 55 F.3d at 892. Third, the defendant may defeat the plaintiff's claim by demonstrating by a preponderance of the evidence that the same action would have been taken even in the absence of the protected conduct. Watters, 55 F.3d at 892.

A. Protected Speech

To be protected under the First Amendment, a plaintiff's speech or conduct must satisfy two conditions. Azzaro, 110 F.3d at 976; Pro v. Donatucci, 81 F.3d 1283, 1287 (3d Cir. 1996). First, the speech must address a matter of public concern. Azzaro, 110 F.3d at 976. Second, the value of the plaintiff's expression must outweigh "the government's interest in the effective and efficient fulfillment of its responsibilities to the public." Id. (quoting Connick v. Myers, 461 U.S. 138, 150 (1983)).

Speech addresses a matter of public concern when it can fairly be considered to relate "to any matter of political, social, or other concern to the community." Watters, 55 F.3d at 892 (quoting Holder v. City of Allentown, 987 F.2d 188, 194 (3d Cir. 1993) (citing Connick v. Myers, 461 U.S. 138, 146 (1983))). The primary consideration is whether the process of self-governance is enhanced by communications on the topic of the plaintiff's speech. Azzaro, 110 F.3d at 977. The court should determine whether the speech addresses a public concern by the "content, form, and context of a

given statement, as revealed by the whole record." Id. at 976 (quoting Connick, 461 U.S. at 147-48). While the plaintiff's motive is a relevant part of the context of the speech, it is not dispositive in determining whether the speech relates to a matter of public concern. Id. at 978. Even where the plaintiff speaks purely for a personal motive, the speech may still relate to a matter of public concern. Id. However, in order to be protected, the speech must touch on matters of public concern, and not merely matters of personal interest to the employee. Connick, 461 U.S. at 147.

Plaintiff fails to identify the specific speech that she purports is protected by the First Amendment. Nevertheless, she provides a general description of this speech as consisting of complaints about the mistreatment of black teachers and black students by white teachers in the school. More specifically, Plaintiff asserts that she complained to Defendant Haines "that Black students were not being treated fairly by white teachers," (Richardson-Freeman Aff. ¶ 33), that she complained to the "Superintendent about white teachers having their complaints responded to and the Black teachers being ignored," (Id. ¶ 34), and that she complained to the "Superintendent about Black students not being provided with adequate supplies and materials." Id. ¶ 35. Plaintiff also testified in her deposition regarding several instances in which she was "outspoken." See Defs.' Ex. 3 ("Richardson-Freeman Dep. Jan. 12, 2001") at 90-93 (conversations with Mr. Glover[5] and other teachers concerning low numbers of minorities being hired as teachers); id. at 93-94 (complaints to lead teacher while an in-school suspension teacher about mistreatment and lack of due process for students); id. at 95 (discussion with Haines regarding ideology).

[5]Mr. Glover was Defendant Richet's predecessor as principal of the Gotwals School.

The Court concludes that this speech relates to a matter of public concern.[6] Complaints about racial discrimination are usually considered to relate to issues of public concern. See Rode v. Dellarciprete, 845 F.2d 1195, 1201 (3d Cir. 1988). Speech relating to the persistence of racial discrimination by school officials and staff against minority staff and students would most certainly be of public concern. Furthermore, in this instance, Plaintiff's complaints extend to discussion over treatment of black teachers and students generally, and not just to address her own circumstance.

Defendants dispute that Plaintiff engaged in any speech touching upon matters of racial discrimination. Though Plaintiff's principal competent evidence regarding her speech is her affidavit, and though this evidence might be construed as being contradicted by at least some of the testimony in her own deposition, Plaintiff has provided sufficient evidence to establish that there is a genuine issue of material fact as to whether Plaintiff engaged in the speech.

The Court must next balance the competing interests of the public and the government. On one side, the court must weigh the employee's own interest in speaking about a matter of public concern, and the value to the community of the employee's freedom to speak on such matters. Azzaro, 110 F.3d at 980. Courts generally assume that the public has a significant interest both in unhindered debate on "matters of public importance," and in encouraging "legitimate whistleblowing" of the alleged malfeasance of public officials. Versarge v. Township of Clinton

[6]In addition to this speech, Plaintiff asserts that she engaged in additional speech relating to other complaints she had, though not race-related, with respect to other teachers and officials. For example, she asserts that she complained about her mistreatment by other teachers on her new teachers team (Richardson-Freeman Aff. ¶¶ 7,9,12), her mistreatment by members of the building committee (Id. ¶¶ 13-14), mistreatment of Mr. Glover (Richardson-Freeman Dep. Jan. 12, 2001, at 90-91), and problems relating to the afterschool program's use of her classroom (Id. at 89-90). For purposes of this motion, it is sufficient that the Court determine that at least some of the speech involved touches upon matters of public concern. Therefore, the Court need not address here whether this speech is also similarly protected.

New Jersey, 984 F.2d 1359, 1366 (3d Cir. 1993). Balanced against these interests is the government's interest in promoting the efficiency of the services it performs through its employees. Azzaro, 110 F.3d at 980. The government's interest is generally impaired where the speech causes disruption in the workplace. Versarge, 984 F.2d at 1366 (quoting Rankin v. McPherson, 483 U.S. 378, 388 (1987)). The defendant need only show a significant potential disruption as a result of the plaintiff's speech, as opposed to actual disruption. Watters, 55 F.3d at 896.

The Court concludes that the value of Plaintiff's expression outweighs the school's interest in the effective and efficient fulfillment of its responsibilities to the public. Given the kinds of allegations involved in Plaintiff's protected speech – relating to white teachers mistreating black students and black teachers, and about black students not receiving supplies – the Court believes the public interest in such speech is extremely high. On the other side of the balance are Defendants' interests, and whether the speech: (1) impaired discipline; (2) impaired harmony among co-workers; (3) had a detrimental impact on close working relationships where personal loyalty and confidence are required; (4) impeded performance of the speaker's duties; or (5) interfered with the regular operation of the school. See Rankin, 483 U.S. at 388. While there would likely be disruption caused by such speech, the balance tips in favor of the public interest here. Thus, the speech would be protected.

B. Retaliation Motivated by Plaintiff's Speech

Next, Defendants challenge Plaintiff's ability to adduce evidence that Defendants engaged in retaliation. A plaintiff may establish a retaliation claim under the First Amendment on the basis of certain adverse employment actions that fall short of termination or a constructive discharge. See Rutan, 497 U.S. at 75 (holding that the First Amendment also prevents retaliation by dispensation

relating to promotions, transfers, and rehires); Anderson, 125 F.3d at 163 (holding that a plaintiff may establish a retaliation claim under the First Amendment if he was "denied a benefit simply because he exercised his First Amendment rights"); Bennis v. Gable, 823 F.2d 723 (3d Cir. 1987) (holding that demotions may constitute retaliation). The Plaintiff must also establish that the protected speech was a substantial or motivating factor for the retaliation. Feldman v. Philadelphia Hous. Auth., 43 F.3d 823, 829 (3d Cir. 1994). The Court will examine the evidence relating to each of the allegedly retaliatory actions taken by the individual defendants.

1. Defendant Haines

Plaintiff alleges that Defendant Haines retaliated against her by failing to address her complaints and refusing to transfer her to the Eisenhower School in 1998[7] (Defs.' Mem. Ex. 2 ("Richardson-Freeman Dep. Jan. 9, 2001") at 148-167) and transferring her out of the Gotwals School in 1999 to an in-school suspension classroom. Id. at 143. Assuming that all of these constitute adverse actions[8], the Court concludes that Plaintiff has failed to provide any evidence that Plaintiff's speech was a substantial or motivating factor for the alleged retaliatory conduct.

Plaintiff does not point to any evidence contained in the record to prove that there is any connection between Plaintiff's protected speech and the retaliatory actions. After independently

[7]Plaintiff also alleges that she was denied the right to express her opposition to mistreatment. However, in her deposition, she testified that the sole instance in which she was denied this right was when the Superintendent refused to see her regarding a dispute over in-service services. Richardson-Freeman Dep. Jan. 12, 2001, at 95. Even if this constituted such a denial, the Superintendent is not a party to this litigation.

[8]Defendants dispute that these and the alleged actions by Richet constitute adverse actions sufficient for retaliation. Because the Court finds Plaintiff has provided insufficient evidence to establish that the Plaintiff's speech was a substantial or motivating factor for retaliation, for purposes of this motion it need not address whether the actions are adverse.

examining the full record, including Plaintiff's submissions, the Court can find no direct evidence to support a finding that either of the actions taken by Defendant Haines were motivated, even in part, by Plaintiff's engagement in protected speech. See, e.g., Pl.'s Mem. Ex. C; Pl.'s Mem. Ex. 7; Pl.'s Mem. Ex. 8; Pl.'s Mem. Ex. 10. Plaintiff in fact admits in her deposition that she does not know why Haines took those actions with respect to her transfer requests. Richardson-Freeman Dep. Jan. 9, 2001, at 170. No witness testimony, no affidavits, and no document in the record provides any indication that Plaintiff's speech was the motive for the denial of the 1998 transfer request or for the 1999 transfer.

Neither does the record support such an inference. Much of the speech in which Plaintiff engaged involved complaints to officials other than Dr. Haines. See, e.g., Richardson-Freeman Aff. ¶¶ 34-35 (complaints to the Superintendent regarding mistreatment of and shortages of supplies for black students); Richardson-Freeman Dep. Jan. 12, 2001, at 90-91 (complaints to Superintendent and building committee regarding mistreatment of Mr. Glover); id. at 89-90 (complaints to Superintendent and Mr. Glover about after school program); id. at 91-92 (conversation with building committee member Vernon Ross, Mr. Glover, and other minority teachers about lack of hiring of minority teachers); id. at 93-94 (complaints about mistreatment of in-school suspension students to lead teacher). Though the fact that the speech was directed to individuals other than Haines does not foreclose the possibility of a causal connection between the speech and Haines' actions, it makes that connection more tenuous. Plaintiff has provided no other evidence even suggesting a link among the protected speech, Dr. Haines, and the actions taken by Dr. Haines. The record reveals that Plaintiff lacks the evidence to establish the necessary causal connection here.

Plaintiff did, however, address some protected speech directly to Haines, namely the

complaints about the unfair treatment of black students by white teachers. Richardson-Freeman Aff. ¶ 33. In order for a reasonable jury to conclude that the speech was a motivating factor for Defendant's actions, it would have to infer such a causal connection from the temporal proximity between that speech and Haines' action in denying the request. Here, the temporal proximity between the comments and the actions on the transfer requests is not sufficient to establish a causal link between Plaintiff's speech and the supposed retaliation. See Delli Santi v. CNA Ins. Cos., 88 F.3d 192, 199 n. 10 (3d Cir. 1996) ("timing alone will not suffice to prove retaliatory motive"); see also Krouse v. American Sterilizer Co., 126 F.3d 494, 503 (3d Cir. 1997); but see Woodson v. Scott Paper Co., 109 F.3d 913, 920 (3d Cir. 1997). Even if timing alone is sufficient to establish a causal link, the timing of the alleged retaliatory action must be unusually suggestive of retaliatory motive before a causal link will be inferred. Robinson v. City of Pittsburgh, 120 F.3d 1286, 1302 (3d Cir. 1997). Here, Plaintiff asserts she had discussions with Haines at some unspecified time in relation to her transfer request. The Court has no basis for determining that the temporal proximity of these discussions to Haines' action is unusually suggestive of a retaliatory motive.

Furthermore, even if Plaintiff could establish a prima facie case of retaliation, Defendant has provided credible proof that his actions would have been the same in the absence of the protected conduct, while Plaintiff has failed to adduce any evidence that reasonably suggests that Defendant's reasons are pretextual. Defendant explains that the 1998 request was denied because the Principal at the Eisenhower Middle School selected a different candidate to fill the open position after interviewing Plaintiff and other candidates. Defs.' Mem. Ex. 6 ("Haines Aff.") ¶¶ 15-16, 18-21. Defendant asserts that he transferred Plaintiff in 1999 to an in-school suspension classroom at another school because she made an open transfer request without specifying a particular grade into

which she wished to be transferred. Id. ¶ 5; Defs.' Mem. Ex. 8 ("Letter from Richardson-Freeman to Haines of 7/15/99"). Under the pertinent school board policy, if a teacher requests a transfer without specifying a grade or program, she will be considered for any opening. Haines Aff. ¶ 5. Nothing in the record or in Plaintiff's brief contradicts or brings into question this evidence. Viewing the evidence in the record in the light most favorable to the Plaintiff, the Court concludes that there is no genuine issue of material fact indicating that Defendant's reasons for his actions were pretextual. See Raniero v. Antun, 943 F. Supp. 413, 423-424 (D.N.J. 1996).

The Court concludes that there is insufficient evidence in the record to establish that there is a genuine issue of material fact as to whether the protected speech was a substantial or motivating factor in Dr. Haines' decisions with respect to Plaintiff. A reasonable jury could not conclude, on the basis of this evidence, that Dr. Haines' decisions were motivated by Plaintiff's protected speech. Furthermore, the Court concludes that even if Plaintiff could establish a prima facie case of retaliation, Plaintiff has failed to establish there is a genuine issue of material fact to show that Defendant's lawful reasons for his actions, which are supported by the record, are a pretext. Because Plaintiff cannot establish that there is a genuine issue of material fact on a key element of her claim, the Court grants Defendants' Motion as to Defendant Haines, and enters judgment in his favor.

2. Defendant Richet

Plaintiff alleges that Defendant Richet took the following adverse actions against her: issued a letter of reprimand in June 1999 (Richardson-Freeman Dep. Jan. 9, 2001, at 171) and issued a performance review with two unsatisfactories.[9] Id. Plaintiff also complains that Defendant

[9]Plaintiff also alleges that Richet maintained a personnel file on Plaintiff without similarly maintaining such a file on any other employee. To the extent this might constitute an adverse action, Plaintiff admitted in her deposition that she had no evidence to believe Richet

transferred Plaintiff from the third grade team to the second grade team. Assuming without deciding that all of these complaints constitute adverse actions, the Court concludes that Plaintiff has failed to provide any evidence that Plaintiff's speech was a substantial or motivating factor for retaliation.

Plaintiff fails to point to any evidence contained in the record to prove that there is any connection between her protected speech and the adverse actions. An examination of the record reveals that there is no direct evidence to support the conclusion that any of the actions taken by Defendant Richet were motivated by Plaintiff's exercise of protected speech. The only other motive even suggested in the record is the testimony of Mildred Monroe that Richet might have issued the reprimand because she disliked Plaintiff. See Defs.' Mem. Ex. 4 ("Monroe Dep.") at 12-16. Aside from this suggestion, none of the deposition testimony, none of the affidavits, and no other document in the record provides any support for any unlawful motive on Defendant's part.

Neither is there any evidence upon which to base a reasonable inference of such a causal relationship. Here, the purported connection between Plaintiff's speech and retaliation is even more attenuated than with Defendant Haines, because Plaintiff fails to provide any evidence that she engaged in protected speech directly with Defendant Richet.[10] Plaintiff's claims against Richet instead rest on the existence of "collusion" between members of the Building Committee and Richet.

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kept such files on other employees, and in fact did not know. See Richardson-Freeman Dep. Jan. 9, 2001, at 173-180. Regardless, Plaintiff fails to provide any evidence regarding Defendant's motive for maintaining the personnel file, and thus fails to link her speech to the maintenance of the file.

[10]Plaintiff asserts in her affidavit that she "engaged in protected speech which was complaining about the racially based mistreatment" to Mr. Glover, and that she in turn "made this known" to Barbara Richet. Richardson-Freeman Aff. ¶¶ 3-4. Plaintiff's statement amounts to a bald assertion or a legal conclusion, and therefore fails to set forth facts about which she is competent to testify. See Fed. R. Civ. P. 56(e).

Richardson-Freeman Dep. Jan. 9, 2001, at 187-88; Pl.'s Mem. Ex. 5 ("Letter from Richardson-Freeman to Dr. Haines of August 17, 1998"). However, Plaintiff fails to provide any competent evidence of this collusion. The Court concludes that the paucity of evidence precludes any reasonable factfinder from being able to infer a causal connection linking Plaintiff's protected speech to Defendant Richet, and in turn to Richet's actions against Plaintiff.

Furthermore, even if Plaintiff could establish a prima facie case of retaliation against Defendant Richet, Richet has presented competent evidence of non-retaliatory reasons for her actions, while Plaintiff has presented no evidence suggesting there is a genuine issue of material fact as to whether those reasons are pretextual. Richet explains that she issued the letter of reprimand and the two unsatisfactories in the performance review because of Plaintiff's failure to follow procedure in relation to class trips. Defs.' Mem. Ex. 9 ("Richet Aff.") ¶¶ 34, 35, 39. She further asserts she transferred Plaintiff to a second grade classroom because of a drop in the numbers of third grade students and an increase in the number of second grade students. (Id. ¶12.) None of the evidence in the record establishes that, if Plaintiff could establish her prima facie case, there would be a genuine issue of material fact for trial on the issue of pretext.

The Court concludes that Plaintiff has failed to provide any direct or inferential evidence to create a genuine issue of material fact with respect to whether Defendant Richet's actions were retaliatory, or whether Richet's motives were pretextual. As such, the Court concludes that Defendant Richet is entitled to judgment on Plaintiff's claim against her. For that reason, the Court grants Defendants' Motion as to Defendant Richet, and enters judgment in her favor.

IV. Conclusion

In summary, the Court concludes that the record reflects an absence of a genuine issues of

material fact in this case. Plaintiff has failed to make a factual showing sufficient to establish the existence of the elements essential to Plaintiff's case. Accordingly, the Court concludes that Defendants John Haines and Barbara Richet are entitled to judgment as a matter of law. Defendants' Motion for Summary Judgment is granted.[11] An appropriate Order follows.

[11]Defendants additionally argue that qualified immunity shields them from liability in this action. In light of the Court's disposition on the other issues in the motion, the Court need not address this final argument.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DONNA RICHARDSON-FREEMAN	)	CIVIL ACTION
	)	
v.	)	
	)	
NORRISTOWN AREA SCHOOL DISTRICT, et al.	)	No. 00-2794

ORDER

AND NOW, this day of March, 2001, upon consideration of Defendants' Motion for Summary Judgment (Doc. No. 18), the responses thereto, and all attendant briefing and materials, **IT IS HEREBY ORDERED** that said Motion is **GRANTED**, and judgment is **ENTERED** for Defendants John Haines and Barbara Richet. This case shall be **CLOSED** for statistical purposes.

BY THE COURT:

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John R. Padova, J.